



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City
SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **January 11, 2023** which reads as follows:*

“G.R. No. 252422 (PEOPLE OF THE PHILIPPINES, Petitioner v. MARK ANTHONY BENIGNO y DALES* a.k.a “BALONG,” Respondent). – The hasty approval of plea bargaining proposal without independent determination of whether the accused is entitled to its benefits necessitates a remand of the case to the trial court.¹ We apply this rule in the Petition for Review on *Certiorari*² before this Court assailing the Resolutions dated March 28, 2019³ and February 20, 2020⁴ of the Court of Appeals (CA) in CA-G.R. SP No. 12500.

The antecedents follow.

Mark Anthony Benigno y Dales a.k.a. “Balong” (Mark Anthony) was charged⁵ with illegal sale of dangerous drugs before the Regional Trial Court of Dumaguete City, Branch 36 (RTC) docketed as Crim. Case No. 22804, thus:

That on or about the 17th day of February, 2015 in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused MARK ANTHONY BENIGNO y DALES (sic) a.k.a. “BALONG”, without authority of law and legal justification, did, then and there willfully, unlawfully and feloniously sell, deliver and give to a poseur buyer two [2] pcs heat-sealed transparent plastic sachets containing white crystalline substance weighing 0.16 gram and 0.15 gram,

* “Deles” in some parts of the *rollo*.

¹ See *People v. Montierro*, G.R. No. 254564, July 16, 2022, <<https://sc.judiciary.gov.ph/254564-254974-21-07-16-sc-18-03-16-sc-people-of-the-philippines-vs-erick-montierro-y-ventocilla-cypher-baldadera-y-pelagio-vs-people-of-the-philippines-re-letter-of-the-philippine-judges-associatio/>> [Per J. Caguioa, *En Banc*] at 27.

² *Rollo*, pp. 18-38.

³ *Id.* at 41-42.

⁴ *Id.* at 45-49. Penned by Associate Justice Marilyn B. Lagura-Yap, with the concurrence of Associate Justices Dorothy P. Montejo-Gonzaga and Carlito B. Calpatura.

⁵ See Information dated February 27, 2015; *id.* at 54-55.

respectively, with a total aggregate weight of 0.31 gram which substances after examination conducted on specimen were found positive to the test of Methamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of Republic Act No. 9165.

Contrary to Section 5 Article II of Republic Act No. 9165.⁶

Mark Anthony pleaded not guilty. Thereafter, Mark Anthony moved⁷ to avail of the Supreme Court plea bargaining framework under A.M. No. 18-03-16-SC,⁸ which allows an accused charged with illegal sale of dangerous drugs to plead guilty to the lesser offense of illegal possession of drug paraphernalia.⁹ However, the prosecution objected to the proposal and invoked Department of Justice (DOJ) Circular No. 27¹⁰ which provides that the acceptable plea bargain for illegal sale of dangerous drugs is the lesser offense of illegal possession of dangerous drugs.¹¹

In due course, the RTC granted¹² Mark Anthony's motion to plea bargain to the lesser offense of illegal possession of drug paraphernalia despite objection from the prosecution, to wit:

Notwithstanding the objection of the government prosecutor and considering that the quantity of the dangerous drugs involved in this case is well within the Supreme Court Resolution on the plea bargaining framework in drug cases where in the quantity of the dangerous drugs involved in this case is only a total of 0.31 gram of *shabu*, the motion is hereby granted. The accused is allowed to plead guilty to a lesser offense of violation of Section 12, Article II of R.A. No. 9165, subject to the condition that in the event that the said accused is found positive for the use of dangerous drug, he shall undergo a drug rehabilitation in an accredited government center for a period of six (6) months which period shall be considered as part of the penalty imposed by the court.

SO ORDERED.¹³

Aggrieved, the People, represented by the Office of the Solicitor General (OSG), elevated the case to the CA through a Petition for *Certiorari*¹⁴ docketed as CA-G.R. SP No. 12500. The OSG argued that the RTC gravely abused its discretion when it allowed the plea bargaining without the consent of the prosecution.¹⁵ Nonetheless, the CA dismissed¹⁶ the Petition outright because it was filed out of time or 23 days beyond the 60-day reglementary

⁶ *Id.* at 54.

⁷ See Motion to Allow the Accused to Enter Into a Plea Bargaining Agreement dated October 15, 2018; *id.* at 56-58.

⁸ Entitled "ADOPTION OF THE PLEA BARGAINING FRAMEWORK IN DRUGS CASES," approved on April 10, 2018.

⁹ *Rollo*, pp. 56-57.

¹⁰ Entitled "AMENDED GUIDELINES ON PLEA BARGAINING FOR REPUBLIC ACT NO. 9165 OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002'," approved on June 26, 2018.

¹¹ *Rollo*, p. 21.

¹² See Order dated October 25, 2018; *id.* at 50. Penned by Acting Presiding Judge Rafael Crescencio C. Tan, Jr.

¹³ *Id.*

¹⁴ *Id.* at 66-82.

¹⁵ *Id.* at 74-80.

¹⁶ See Resolution dated March 28, 2019; *id.* at 41-42.

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period.¹⁷ The OSG sought reconsideration but was denied.¹⁸ Hence, the Petition before this Court.¹⁹ The OSG reiterates that the prosecution's consent is essential to a valid plea bargaining.²⁰ In contrast, Mark Anthony claims²¹ that the RTC has the authority to overrule objections of the prosecution in plea bargaining.²²

Prefatorily, the Court agrees with the CA's findings that the OSG filed the Petition for *Certiorari*²³ beyond the reglementary period. Yet, the Court deems it proper to relax the rules to give way to the application of the recent guidelines in plea bargaining in drugs cases. In *People v. Montierro*,²⁴ the Court *En Banc* took judicial notice that DOJ Circular No. 18²⁵ amended DOJ Circular No. 27 to conform with the plea bargaining framework under A.M. No. 18-03-16-SC. Consequently, the prosecution's objection to the plea bargaining proposal based solely on DOJ Circular No. 27 is considered effectively withdrawn rendering the case moot and academic, to wit:

Under DOJ Circular No. 27, an accused charged with violation of Section 5 of RA No. 9165 (for less than 5 grams of *shabu* or less than 300 grams of *marijuana*) may plead guilty to a lesser offense under Section 11, paragraph 3 or *Possession of Dangerous Drugs*; whereas, under the Court's Plea Bargaining Framework in Drugs Cases, the acceptable plea for violation of Section 5 of RA No. 9165 (for 0.01 gram to 0.99 gram of *shabu* or 0.01 gram to 9.99 grams of *marijuana*) is the lesser offense of *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs* under Section 12 of RA No. 9165. **This inconsistency was reconciled in DOJ Circular No. 18, where the acceptable plea for violation of Section 5 of RA No. 9165 is now Section 12 of RA No. 9165, which is in accordance with the Court's Plea Bargaining Framework in Drugs Cases.**

With the amendments introduced in DOJ Circular No. 18, the prosecution's objection to Montierro and Baldadera's plea bargaining proposals, which was based solely on DOJ Circular No. 27, can now be considered as effectively withdrawn. As such, the issues of whether the RTC erred in declaring DOJ Circular Nos. 61 and 27 invalid and overruling the prosecution's continuing objection to Montierro and Baldadera's plea bargaining proposals are now rendered moot and academic.²⁶ (Emphasis in the original)

¹⁷ *Id.* at 41.

¹⁸ See Resolution dated February 20, 2020: *id.* at 45-49.

¹⁹ *Id.* at 18-38.

²⁰ *Id.* at 27-33.

²¹ See Comment to the Petition for Review on *Certiorari*; *id.* at 118-149.

²² *Id.* at 130-133.

²³ *Id.* at 66-82.

²⁴ G.R. No. 254564, July 26, 2022, <<https://sc.judiciary.gov.ph/254564-254974-21-07-16-sc-18-03-16-sc-people-of-the-philippines-vs-erick-montierro-y-ventocilla-cypher-baldadera-y-pelagio-vs-people-of-the-philippines-re-letter-of-the-philippine-judges-associatio/>> [Per J. Caguioa, *En Banc*].

²⁵ Entitled "REVISED AMENDED GUIDELINES ON PLEA BARGAINING FOR REPUBLIC ACT NO. 9165 OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002'," approved on May 10, 2022.

²⁶ *People v. Montierro*, G.R. No. 254564, July 26, 2022, <<https://sc.judiciary.gov.ph/254564-254974-21-07-16-sc-18-03-16-sc-people-of-the-philippines-vs-erick-montierro-y-ventocilla-cypher-baldadera-y-pelagio-vs-people-of-the-philippines-re-letter-of-the-philippine-judges-associatio/>> [Per J. Caguioa, *En Banc*] at 11-12.

Despite the mootness of the controversy, the Court still decided the merits of the case given the circumstances of grave violation of the Constitution, exceptional character of the situation, and paramount public interest involved. Also, the case is capable of repetition yet evading review because the DOJ may again issue regulations that may conflict with the Court's exclusive rule-making authority. Corollarily, the Court clarified the decisions in *Sayre v. Xenos*,²⁷ *People v. Reafor*,²⁸ *People v. Borrás*,²⁹ and allied cases which caused confusion among trial judges. The Court reiterated that plea bargaining is a rule of procedure within its exclusive domain. As such, A.M. No. 18-03-16-SC takes precedence over DOJ Circular No. 27 or any other similar issuance. Moreover, plea bargaining requires the consent of the parties but its approval is subject to the sound discretion of the trial court, thus:

This dividing line between prosecutorial prerogatives and judicial discretion is why courts may overrule objections on plea bargaining on certain grounds. The prosecution's objection may be based on anything under the sun. If an objection is anchored on what is exclusively a prosecutorial prerogative, it would indeed be a violation of the separation of powers for a court to override the prosecutor's objection. If, however, the objection is based on a supposed "internal guideline" of the Executive that directly runs counter to a Court issuance promulgated within the exclusive domain of the Judiciary — such as the Plea Bargaining Framework — then, it is not a violation, but rather a **mere assertion**, of the principle of separation of powers. In other words, as any motion submitted for the court's resolution, if the prosecution's basis for objection has no merit or runs afoul of the Constitutional prerogative exclusive to the court, then it is not unconstitutional for a court to assert by ruling that such objection is invalid.

It must be clarified that courts are not given the unbridled discretion to overrule any objection of the prosecution to a plea bargaining proposal. To be sure, the authority of the court over plea bargaining in drugs cases is circumscribed foremost by the Court-issued framework on the acceptable plea bargains and by the evidence and circumstances of each case. Thus, a court has no jurisdiction to overrule an objection of the prosecution if the same is grounded on evidence showing that the accused is not qualified therefor, or when the plea does not conform to the Court-issued rule or framework.

However, when a court overrules a prosecution's objection, which is solely grounded on an Executive issuance or policy that contradicts a Court-issued rule on plea bargaining, it is not an intrusion into the Executive's authority and discretion to prosecute crimes, but is simply a recognition of the Court's exclusive rule-making power as enshrined in the Constitution.³⁰ (Emphasis in the original)

²⁷ G.R. No. 244413, February 18, 2020, 932 SCRA 501 [Per J. Carandang, *En Banc*].

²⁸ G.R. No. 247575, November 16, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67092>> [Per J. Perlas-Bernabe, Second Division].

²⁹ G.R. No. 250295, March 15, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66974>> [Per J. Lazaro-Javier, Second Division].

³⁰ *People v. Montierro*, G.R. No. 254564, July 26, 2022, <<https://sc.judiciary.gov.ph/254564-254974-21-07-16-sc-18-03-16-sc-people-of-the-philippines-vs-erick-montierro-y-ventocilla-cypher-baldadera-y-pelagio-vs-people-of-the-philippines-re-letter-of-the-philippine-judges-associatio/>> [Per J. Caguioa, *En*

More importantly, the Court formulated the guidelines that the Bench, the Bar, and the public must observe in plea bargaining in drugs cases, to wit:

1. Offers for plea bargaining must be initiated in writing by way of a formal written motion filed by the accused in court.
2. The lesser offense which the accused proposes to plead guilty to must necessarily be included in the offense charged.
3. Upon receipt of the proposal for plea bargaining that is compliant with the provisions of the Plea Bargaining Framework in Drugs Cases, the judge shall order that a drug dependency assessment be administered. If the accused admits drug use, or denies it but is found positive after a drug dependency test, then he/she shall undergo treatment and rehabilitation for a period of not less than six (6) months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if the penalty is still unserved. If the accused is found negative for drug use/dependency, then he/she will be released on time served, otherwise, he/she will serve his/her sentence in jail minus the counselling period at rehabilitation center.
4. As a rule, plea bargaining requires the mutual agreement of the parties and remains subject to the approval of the court. Regardless of the mutual agreement of the parties, the acceptance of the offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right but is a matter addressed entirely to the sound discretion of the court.
 - a. Though the prosecution and the defense may agree to enter into a plea bargain, it does not follow that the courts will automatically approve the proposal. Judges must still exercise sound discretion in granting or denying plea bargaining, taking into account the relevant circumstances, including the character of the accused.
5. **The court shall not allow plea bargaining if the objection to the plea bargaining is valid and supported by evidence to the effect that:**
 - a. **the offender is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times; or**
 - b. **when the evidence of guilt is strong.**
6. Plea bargaining in drugs cases shall not be allowed when the proposed plea bargain does not conform to the Court-issued Plea Bargaining Framework in Drugs Cases.
7. Judges may overrule the objection of the prosecution if it is based solely on the ground that the accused's plea bargaining proposal is inconsistent with the acceptable plea bargain under any internal rules or guidelines

Banc] at 28.

of the DOJ, though in accordance with the plea bargaining framework issued by the Court, if any.

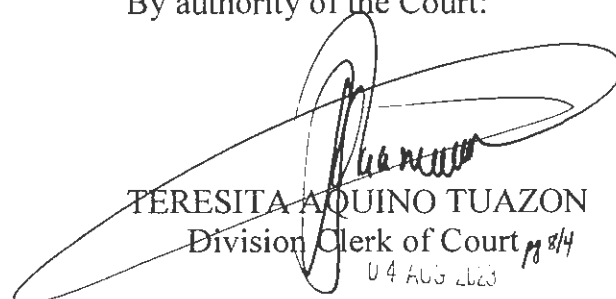
8. If the prosecution objects to the accused's plea bargaining proposal due to the circumstances enumerated in item no. 5, the trial court is mandated to hear the prosecution's objection and rule on the merits thereof. If the trial court finds the objection meritorious, it shall order the continuation of the criminal proceedings.
9. If an accused applies for probation in offenses punishable under RA No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Section 24 thereof, then the law on probation shall apply.³¹ (Emphasis supplied)

Applying the guidelines, it appears that the RTC hastily approved Mark Anthony's plea bargaining proposal without independent determination of whether the evidence of guilt is strong, and whether he is a recidivist, habitual offender, is known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times. Notably, the presence of any of these circumstances would bar Mark Anthony from availing of the benefits of entering into a plea bargain with the State. In the interest of justice, a remand of the case is necessary to afford the trial court an opportunity to ascertain whether Mark Anthony is entitled to avail the benefits of plea bargaining.

FOR THESE REASONS, the Petition is **GRANTED**. The Resolutions dated March 28, 2019 and February 20, 2020 of the Court of Appeals in CA-G.R. SP No. 12500 are **SET ASIDE**. The case is **REMANDED** to the Regional Trial Court of Dumaguete City, Branch 36 for further proceedings to determine whether the accused is qualified to avail the benefits of plea bargaining.

SO ORDERED."

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court pg 8/4
04 AUG 2023

³¹ *Id.* at 31-32.

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village, Makati City

PUBLIC ATTORNEY'S OFFICE (reg)
Regional Special & Appealed Cases Unit
3F, Taft Commercial Center
Metro Colon Carpark, Osmeña Boulevard
Brgy. Kalubihan, 6000 Cebu City

MARK ANTHONY BENIGNO y DALES a.k.a.
"BALONG" (reg)
Respondent
c/o The City Jail Warden
Dumaguete City District Jail
Bureau of Jail Management and Penology
Dumaguete City

THE CITY JAIL WARDEN (reg)
Dumaguete City District Jail
Bureau of Jail Management and Penology
Dumaguete City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 36
Dumaguete City
(Crim. Case No. 22804)

COURT OF APPEALS (reg)
Visayas Station
Cebu City
CA-G.R. SP No. 12500

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Supreme Court, Manila

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PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

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